



DISMISSALS DUE TO DELAY OF ANALYSIS OF EVIDENCE

SUBMITTED TO THE NORTH CAROLINA GENERAL ASSEMBLY
JUSTICE & PUBLIC SAFETY OVERSIGHT COMMITTEE
PURSUANT TO S.L. 2015-241, 18A.9

NORTH CAROLINA CONFERENCE OF DISTRICT ATTORNEYS
SEPTEMBER 12, 2017

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Section 18A.9 of the Appropriations Act of 2015 mandated that “Whenever a criminal case is dismissed as a direct result of a delay in analysis of evidence by the State Crime Laboratory, the district attorney for the district in which the case was dismissed shall report that dismissal and the facts surrounding it to the Conference of District Attorneys. The Conference of District Attorneys shall compile any such reports of dismissals and, in coordination with the State Crime laboratory, shall report them quarterly starting October 30, 2015, to the chairs of the House of Representatives and the Senate Appropriations Committees on Justice and Public Safety and to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety.”

FORENSIC ANALYSIS

Following the 2009 U.S. Supreme Court ruling in *Melendez-Diaz v. Massachusetts* that required forensic scientists to provide live, in-court testimony, the State Crime Lab has navigated the challenges of inadequate funding, noncompetitive pay, and changes in forensic science. The Conference of District attorneys worked to secure funding for both local hospitals and a statewide vendor contract to handle toxicology analysis to assist in-house scientists to clear long-pending cases. In recent years, the General Assembly has assisted by providing funding and resources to address the State Crime Lab’s needs. The State Crime Lab has made great strides to address these changes and challenges, and improvements are being realized.

At this time the Conference of District Attorneys has received no reports of dismissals due to lab delays.

CONCLUSION

The caseloads at the State Crime Lab grew due to multiple factors over several years. There was no quick fix nor a single solution to the problem. However, much progress has been made in addressing the challenges through multiple initiatives. Significant effort has been made in the past three years to encourage prosecutors and the State Crime Lab to develop new procedures and processes, improve communication and responsiveness in order to maximize resources. The State Crime Lab and the Conference of District Attorneys continue to encourage District Attorneys to utilize outsourcing to address any backlog of DWI cases or instances where cases are being dismissed due to lab delay.

The Conference of District Attorneys continues to train the over 600 prosecutors and 500 legal assistants on these new procedures and encourages District Attorneys to implement new processes in their case management. Caseload cleanup initiatives, outsourcing, local labs and hospital contracts have all been applied and we are seeing progress. It is clear to both the State Crime Lab and District Attorneys that

continued communication between prosecutor offices and the Lab is the best way to ensure that cases are analyzed and managed in the most effective manner. The Conference of District Attorneys and the State Crime Lab continue to look for innovative ways to process cases, automate communication and train stakeholders.

STATE CRIME LAB RESPONSE

The NC State Crime Laboratory continues to work effectively with the Conference of District Attorneys to promote best practices among District Attorneys to make forensic analysis more efficient as indicated by no reports of dismissed cases. The Lab continues to train and encourage District Attorneys to:

- Notify the Lab when analysis is no longer needed in a case so that time and money are not spent working cases not needed by the Court. **All 44 Districts are fully participating as of September 2017.**
- Establish agreements with Superior Court judges to allow Lab analysts serving as trial witnesses to testify quickly instead of waiting in court, minimizing the time forensic scientists spend away from active casework. Although **27 of 50 Superior Court Districts, representing 54 counties, are participating at this time**, the Lab saw an increase of 28% and 10% of 'wait time' from the prior two years, respectively.

These practices enable the State Crime Lab to provide more timely forensic analysis and all judicial districts in the state are encouraged to adopt them. Coupled with transparency standards and high quality through Lab Accreditation and Scientist Certification, the Lab remains committed to serving the State's citizens.

The Lab has the capacity to rush analysis of evidence needed for certain impending court dates, with sufficient notice from the District Attorney. In addition, scientists with the State Crime Lab rely on District Attorneys to keep them informed about court dates and help them prioritize cases.

The State Crime Lab thanks the Conference of District Attorneys for its work on this report and looks forward to continuing to work with the Conference and its members on behalf of the North Carolina criminal justice system.